

**LEVINE, BLASZAK, BLOCK & BOOTHBY**

1300 CONNECTICUT AVENUE, NW

SUITE 500

WASHINGTON, D.C. 20036-1703

(202) 223-4980

FAX (202) 223-0833

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June 29, 1995

FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554

Mr. William F. Caton  
Acting Secretary  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, D.C. 20554

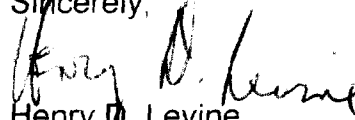
RE: In the Matter of End User Common Line  
Charges, CC Docket No. 95-72

Dear Mr. Caton:

Pursuant to Sections 1.415 and 1.419 of the Commission's Rules, attached please find an original and 4 copies of the Comments of the California Bankers' Clearing House Association, MasterCard International Incorporated, the New York Clearing House Association and the Securities Industry Association, in the above captioned matter. Please date stamp the additional copy and return it with our messenger.

If you have any questions regarding this filing, please do not hesitate to call.

Sincerely,

  
Henry D. Levine

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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

JUN 29 1995

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the Matter of )  
 )  
End User Common )  
Line Charges )

CC Docket No. 95-72

### COMMENTS

The California Bankers' Clearing House Association, MasterCard International Incorporated, the New York Clearing House Association and the Securities Industry Association (collectively the "User Parties") submit these comments in response to the Commission's May 30, 1995 Notice of Proposed Rulemaking in the above-captioned proceeding.<sup>1</sup> The User Parties urge the Commission to amend Part 69 of its Rules (the access charge rules) to require Local Exchange Carriers (LECs) to base the Subscriber Line Charges (SLCs) applicable to Integrated Services Digital Network (ISDN) services and other derived channel services on the cost of providing such services.

In the NPRM, the Commission acknowledges that the existing access charge rules could retard the development and potential use of beneficial new technologies that will facilitate access to the National Information Infrastructure.<sup>2</sup> The Commission appears to be concerned, however, that if it

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<sup>1</sup> *End User Common Line Charges*, CC Docket No. 95-72, FCC 95-212, (released May 30, 1995), ("NPRM").

<sup>2</sup> NPRM, at ¶ 17.

amends the access charge rules to reduce the level of SLC revenues derived from ISDN and other derived channel services, usage-sensitive Carrier Common Line Charges (CCLCs) will increase, potentially raising interstate toll rates.<sup>3</sup> The NPRM also states that the Commission thinks this proceeding should take into account, “[c]ompetitive developments in the interstate access market, and the accompanying need to identify and reduce unnecessary support flows, and reexamine rate structures predicated on an exclusively monopoly market structure.”<sup>4</sup> The Commission understands that these considerations, “[a]re sometimes in potential conflict with one another.”<sup>5</sup>

The NPRM observes that there are a number of ways to compute the SLCs applicable to derived channel services. The Commission could, for example, require one SLC per *physical facility* serving a given customer, an approach the Commission characterizes as “one extreme.”<sup>6</sup> The other extreme, according to the Commission, would be to maintain the current rule, which applies one SLC per voice grade equivalent derived *channel*.<sup>7</sup> The NPRM also raises several intermediate options that are based on considerations ranging

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<sup>3</sup> *Id.*, at ¶ 18. The User Parties do not have information on the level of SLC revenues derived from ISDN and other derived channel services relative to the SLC revenues derived from ordinary Subscriber Lines. The User Parties, however, believe that the demand for ISDN is quite low and that reforming the access charge rules to apply economically rational SLCs to such services will likely have no perceptible effect on interstate long distance rates.

<sup>4</sup> *Id.*, at ¶ 19.

<sup>5</sup> *Id.*, at ¶ 16.

<sup>6</sup> *Id.*, at ¶ 21.

<sup>7</sup> *Id.*

from the ratio of derived channel costs to ordinary local loop costs to the status of competition in local exchange markets.<sup>8</sup>

The NPRM suffers from the fundamental deficiency that it fails to come to grips with the fact that the current access charge rules are economically irrational, and any proposal that seeks to extend that irrationality is itself deeply flawed. Although better than the Settlements and ENFIA processes that preceded them, the access charge rules are largely the product of bargains struck and compromises made over a decade ago. These compromises were made in response to claims that SLCs would jeopardize Universal Service. Although those claims proved to be false,<sup>9</sup> SLCs have not been increased in years, even though virtually every economist who has looked at the issue agrees that they often fail to recover all relevant interstate Subscriber Line costs. Because SLCs are too low, CCLCs are too high, even though they have come down markedly since the initial implementation of the Commission's access charge rules. Nothing in the NPRM indicates that the Commission's goal is to correct (or at least not aggravate) this fundamental deficiency as it comes up with a methodology for computing derived channel SLCs.

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<sup>8</sup> *Id.*, at ¶¶ 22-23.

<sup>9</sup> Telephone penetration has increased substantially since SLCs were introduced. From the end of 1983 through the end of 1994, the number of households with telephones increased from 86 million to 100 million and the percentage of households without telephones decreased from 8.6% to 6.2%. Alexander Belinfante, *Telephone Subscribership in the United States*, Industry Analysis Division, Common Carrier Bureau, Federal Communications Commission, at p. 6, (released April, 1995).

Rather than tying itself in intellectual knots and putting patches on patches the Commission should focus on first principles. The most basic of these is that, absent a compelling reason to the contrary, rates should be based on the costs which customers cause a carrier to incur. In this case, the Commission should amend its access charge rules to require that the SLCs applicable to ISDN and other derived channel services be based on the actual interstate cost of providing those services. Those costs would include the cost of the two-wire or four-wire loops used to provide Basic Rate and Primary Rate ISDN and the cost of the associated central office equipment.<sup>10</sup>

Some believe that Universal Service considerations and the practice of subsidizing Subscriber Lines without regard to need or cost justify the current SLC level. Whether or not these arguments are sound, they do not justify cross-subsidization of or by ISDN or other derived channel services. The Universal Service umbrella currently covers only voice grade telephony. Whether the Universal Service concept should be extended to cover more services is a valid issue for public debate, but that debate should not be conducted on an *ad hoc* basis. If the Commission were to find in the future that ISDN and similar services are components of the Universal Service "suite" of services, it would have to address the extent to which such services should be subsidized, from which services the subsidy should come, and how the burdens

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<sup>10</sup> This approach would probably result in a monthly charge that is higher in some study areas than the charge that would result from applying the current SLC on a per facility basis, because the current SLC in some study areas is lower than the actual cost of providing Subscriber Lines.

of subsidization are to be borne. Until the Commission resolves those issues, it should not explicitly or implicitly sanction the subsidization of additional services.

Nor should the Commission go out of its way to impose uneconomic burdens on services, such as ISDN, which facilitate access to the National Information Infrastructure and help businesses to operate more efficiently. Imposing a SLC on every derived channel is a tax that inflates ISDN rates far above the relevant economic costs, discouraging the use of new technologies and high-speed information services. Policies that mandate such results are violently at odds with the nation's (and the Commission's) commitment to the rapid deployment of communications technologies that promise enhancements in productivity, health care, and education.

The impact was small when ISDN was a solution in search of a problem -- pushed by the LECs who invented it in the small "islands" in which it was deployed, but of marginal (if any) interest to users. But expanded deployment, price reductions, and growing demand for intermediate bandwidth are fueling customer interest. ISDN is attractive because it allows a customer -- without installing coaxial cable or optical fiber -- to get multiple lines out of a single twisted pair. It also provides relatively cheap connectivity for desktop videoconferencing, which is now feasible (and becoming attractive) at 112 kbps. And it offers the logical next step after 28.8 kbps/V.34 modems for applications

such as Internet access, Group 4 telefacsimile, and computer-to-computer connections.<sup>11</sup> The result is rising demand.

The User Parties urge the Commission to amend Part 69 of its Rules to require that the interstate SLCs applicable to ISDN and derived channel services be set "correctly", *i.e.*, that they reflect the study areas' actual interstate costs of providing such services to business and residential subscribers. Because costs are associated with facilities rather than the channels derived from them, this will likely produce SLCs that are closer to \$6 per ISDN service than \$18, but the precise level is less important than the approach. For purposes of setting such SLCs, the Commission should require carriers to submit the same kind and quality of cost support that it requires for new service rates under its price cap rules. Thereafter, the SLC for such services would fall under the Commission's price cap rules.

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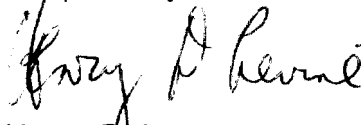
<sup>11</sup> See, generally, M.J. Richter, *ISDN is Finally Airborne*, Communications Week, December 5, 1994, p. 56.

## CONCLUSION

There are relatively few ISDN lines in service in mid-1995 (estimates of market penetration range from 1-3 percent), but the number is beginning to grow rapidly. For the Commission's purposes, this means that the cost of setting ISDN SLCs properly today is relatively small, but the cost of correcting a bad decision in a few years will be very high.

Please do it right, now.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Henry D. Levine". The signature is fluid and cursive, with the first name "Henry" being more prominent.

Henry D. Levine  
Ellen G. Block

Levine, Blaszak, Block & Boothby  
1300 Connecticut Avenue, N.W.  
Washington, D.C. 20036  
(202) 223-4980

Counsel for the California Bankers Clearing  
House Association, MasterCard  
International Incorporated, the New York  
Clearing House Association, and the  
Securities Industry Association

Dated: June 29, 1995



## CERTIFICATE OF SERVICE

I, Einar Torbjørnsen, hereby certify that true and correct copies of the Comments by the California Bankers Clearing House Association, MasterCard International Incorporated, the New York Clearing House Association and the Securities Industry Association, in the matter of End User Common Line Charges, were served on this 29th day of June 1995, by hand delivery upon each of the following persons:

Peggy Reitzel  
Policy and Program Planning Division  
Common Carrier Bureau  
Federal Communications Commission  
Room 544  
1919 M Street, NW  
Washington, D.C. 20054

ITS, Inc.  
2100 M Street, NW  
Suite 140  
Washington, D.C. 20037



Einar Torbjørnsen

June 29, 1995